

May 24, 2005

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P.O. Box 4010
Sacramento, CA 95812-4010

Dear Ms. Oshita:

This letter is being written to express our concern regarding the proposal to label acrylamide, formed as a natural by-product of the cooking process, under Proposition 65. We support rulemaking that would provide a limited exemption from the warning requirements of the Act, under specified circumstances, for exposures to listed chemicals that form in a food solely as a result of naturally occurring constituents in the food being cooked or heat processed.

We do not believe that the statute should regulate a food that would not be subject to Proposition 65 labeling in its raw form. We support the proposed language posted on your web site on April 5, 2005, which states, "For purposes of Health and Safety sections 25249.6, an exposure does not occur if the person otherwise responsible can show that the chemical in question formed solely from constituents naturally present in food and as a result of the food being cooked or heat processed, and that the concentration of the chemical in question has been reduced to the lowest level currently feasible using good cooking and manufacturing processes."

Acrylamide and other by-products of cooking have been present in a wide variety of foods for centuries, including coffee, bread, hamburgers and waffles. As you are aware, FDA and other leading health and food safety agencies around the world have intensively studied the potential effects of acrylamide and have uniformly concluded that no change in diet is warranted. Until more is known, FDA is not recommending that consumers change their diet or cooking methods because of concerns about acrylamide.

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Further, there are other issues that may become a problem if Proposition 65 warning statements are required. We are concerned that the warning statement is in conflict with federal labeling requirements and could result in lawsuits against the food industry. The fact that warning statements could appear on many common food products may cause some consumers to avoid foods that may be necessary for a balanced diet. In addition, the issue of "warning fatigue" could become a problem to consumers. Finally, this labeling requirement would have a huge negative impact on the food processing industry.

We appreciate the opportunity to express our opinion on this matter. We understand that this is a very controversial subject; however, we want to be on record as strongly supporting an exemption to Proposition 65 labeling for exposures to chemicals that are formed from natural constituents in the food during cooking or heat processing. We hope that you can look favorably on the proposal to exempt Proposition 65 warning requirements from foods that form acrylamides during cooking or heat processing.

Sincerely,

Katy Coba

Director

Oregon Department of Agriculture